

§ 1309.10

18 CFR Ch. XIII (4–1–08 Edition)

breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the nature of (1) the statute under which the real property is obtained, (2) the recipient, and (3) the instrument effecting or recording the transfer of title. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?

(a) A recipient has primary responsibility to ensure that its programs or activities are in compliance with the Act and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and afford TVA access to its records to the extent required by TVA to determine whether the recipient is in compliance with the Act.

(b) TVA has responsibility to attempt to secure a recipient's compliance with the Act by voluntary means, to the fullest extent practicable, and to provide assistance and guidance to recipients to help them comply voluntarily. TVA may use the services of appropriate Federal, State, local, or private organizations for this purpose. TVA also has the responsibility to enforce the Act when a recipient fails to eliminate violations of the Act.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?

(a) *Written notice, technical assistance, and educational materials.* TVA shall:

(1) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where the recipient initially receiving funds makes the funds available to a subrecipient, the recipient must notify the subrecipient of its obligations under the Act. The notice may be made a part of the contract under which financial assistance is provided by TVA.

(2) Provide technical assistance to recipients, where necessary, to aid them in complying with the Act.

(3) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

(b) [Reserved]

§ 1309.12 What are a recipient's responsibilities on compliance reports and access to information?

(a) *Compliance reports.* Each recipient shall keep such records and submit to TVA timely, complete and accurate compliance reports at such times and in such form and containing such information, as TVA may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case in which a primary recipient passes through financial assistance from TVA to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(b) *Access to sources of information.* Each recipient shall permit access by TVA during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person, and such agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(c) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries,

and other interested persons such information regarding the provisions of this part and its applicability to the program or activity for which the recipient receives financial assistance, and make such information available to them in such manner as TVA finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.13 What are the prohibitions against intimidation or retaliation?

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by the Act or this part, or because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, mediation, hearing, or other proceeding under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, mediation, hearing, or judicial proceeding arising under the Act or this part.

§ 1309.14 How will complaints against recipients be processed?

(a) *Receipt of complaints.* Any individual who claims (individually or on behalf of any specific class of individuals) that he or she has been subjected to discrimination prohibited by this part (including § 1309.13) may file a written complaint with TVA. The written complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by TVA for good cause shown. A complaint shall be signed by the complainant, give the name and mailing address of the complainant and the recipient, identify the TVA financial assistance involved, and state the facts and occurrences (including dates) which led the complainant to believe that an act of prohibited discrimination has occurred. Anonymous complaints will not be accepted or filed under this section, but may be the basis for a compliance review. TVA will reject any complaint which does not

fall within the coverage of the Act and this part, and may reject or require supplementation or clarification of any complaint which does not contain sufficient information for further processing as set forth in this paragraph. A complaint shall not be deemed filed until all such information has been provided to TVA.

(b) *Prompt resolution of complaints.* The complaint shall be resolved promptly. To this end, TVA shall proceed with the complaint without undue delay so that the complaint is resolved within 180 calendar days after it is filed with TVA. The recipient and complainant involved in each complaint are required to cooperate in this effort. Failure to cooperate on the part of the complainant may result in cancellation of the complaint, while such failure on the part of the recipient may result in enforcement action as described in § 1309.15.

(c) *Mediation of complaints.* All complaints which fall within the coverage of the Act and this part will be referred to a mediation agency designated by the Secretary.

(1) The participation of the recipient and the complainant in the mediation process is required, although both parties need not meet with the mediator at the same time.

(2) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing. The mediator shall send a copy of the settlement to TVA. No further action shall be taken based on that complaint unless it appears that the complainant or the recipient is failing to comply with the agreement.

(3) Not more than 60 days after the complaint is filed, the mediator shall return a still unresolved complaint to TVA for initial investigation. The mediator may return a complaint at any time before the end of the 60-day period if it appears that the complaint cannot be resolved through mediation.

(4) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose